



MEMO ENDORSED

U.S. Department of Justice

United States Attorney  
Southern District of New York

86 Chambers Street, 3rd floor  
New York, New York 10007

January 11, 2013

**BY HAND DELIVERY**

The Honorable William H. Pauley III  
United States District Court  
Southern District of New York  
500 Pearl Street  
New York, New York 10007

USDC SDNY  
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Re: *ACLU v. DOJ*, No. 12 Civ. 7412 (WHP)

Dear Judge Pauley:

This Office represents the United States Department of Justice ("Government") in the above-referenced Freedom of Information Act ("FOIA") matter. We respectfully submit this letter jointly with Plaintiff the American Civil Liberties Union Foundation ("ACLU") to request that the Court hold a pre-motion conference in anticipation of the parties' submission of cross-motions for summary judgment at the initial pretrial conference scheduled for January 18, 2013 at 11:00 a.m. Alternatively, we ask that the Court waive its pre-motion conference requirement, adjourn the initial pretrial conference, and so order the mutually agreed proposed briefing schedule set forth below for the parties' summary judgment motions.

This matter concerns the ACLU's FOIA request submitted to the Federal Bureau of Investigation ("FBI") in 2012, seeking two memoranda. The FBI concluded that the two documents were created and maintained by the United States Department of Justice, Criminal Division ("DOJ-Criminal") and forwarded the FOIA Request to DOJ-Criminal for processing. On December 14, 2012, DOJ-Criminal released the two memoranda to ACLU with material redacted pursuant to 5 U.S.C. §§ 552(b)(5) and 552(b)(7)(E). The ACLU disputes that the redacted material was properly withheld pursuant to legitimate FOIA exemptions.

The parties believe that, as with most FOIA actions, this case can and should be decided through motions for summary judgment and without discovery. The parties have conferred regarding the briefing of the motions and jointly propose the following briefing schedule:

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Friday, February 22, 2013 – Government's motion due  
Friday, April 5, 2013 – ACLU's opposition and cross-motion due  
Monday, May 6, 2013 – Government's opposition and reply due  
Wednesday, June 5, 2013 – ACLU's reply due  
Friday, June 28, 2013 – Government's sur-reply due

The parties believe they are able to proceed to their motions without a pre-motion conference or initial pretrial conference. In the event the Court believes such conferences would be necessary or helpful, the parties will appear as scheduled on January 18, 2013.

We thank the Court for its consideration of these requests.

Respectfully submitted,

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By:



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Application granted. The proposed  
Schedule is adopted. This Court  
will hear oral argument on  
July 12, 2013 at 11:00 a.m.

SO ORDERED:

  
WILLIAM H. PAULEY III U.S.D.J.

2/4/13